

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Supervising Deputy Attorney General

3 Attorneys for Complainant

4 BLANCA I. LOPEZ,
5 Senior Legal Analyst
California Department of Justice
6 110 West "A" Street, Suite 1100
San Diego, CA 92101

7 P.O. Box 85266
8 San Diego, CA 92186-5266
Telephone: (619) 645-2610
9 Facsimile: (619) 645-2061

10
11 **BEFORE THE**
BOARD OF REGISTERED NURSING
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 2009-139

14 LISA DIANE STEVENS, RN
15 aka LISA DIANE SCHWAGER
27200 Wendworth Drive
16 Sun City, CA 92586

A C C U S A T I O N

17 Registered Nursing License No. 464910

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
23 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
24 Department of Consumer Affairs.

25 2. On or about March 31, 1991, the Board of Registered Nursing issued
26 Registered Nursing License No. 464910 to Lisa Diane Stevens, aka Lisa Diane Schwager
27 (Respondent). Said license was in full force and effect at all times relevant to the charges
28 brought herein expired on January 31, 2007.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 states, in pertinent part:

"Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [article 3, commencing with section 2750]. As used in this article, 'license' includes certificate, registration, or any other authorization to engage in the practice regulated by this chapter [chapter 6, commencing with section 2700]."

5. Section 2764 states:

"The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary suspension of a license by a licentiate shall not deprive the board of jurisdiction to proceed with any investigation of or disciplinary proceeding against such license, or to render a decision suspending or revoking such license."

6. Section 2811, subdivision (b), provides in pertinent part, that each license not renewed in accordance with that section shall expire, but may within a period of eight years thereafter be reinstated.

7. Section 2761 states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [chapter 6, commencing with section 2700] or regulations adopted pursuant to it.

....

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Section 490 states:

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

9. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare.

10. Section 125.3, subdivision (a), states, in pertinent part:

Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . the board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Conviction - January 30, 2008)
(Driving Under the Influence of Controlled Substances -
Klonopin, Oxycodone, Marijuana - on November 7, 2007)

11. Respondent is subject to disciplinary action under section 2761, subdivision (f) and 490, in conjunction with California Code of Regulations, title 16, section 1444, in that Respondent was convicted of a crime, which is substantially related to the qualifications, functions, or duties of a licensed registered nurse, in that on or about January 30, 2008, Respondent was convicted by the court on her plea of guilty of violating Vehicle Code section 23152(a) (Driving Under the Influence of Controlled Substances), a misdemeanor, in the Riverside County Superior Court, Case No. SWM071134, in the case entitled *The People of the State of California v. Lisa Diane Stevens, aka Lisa Diane Schwager*.

/ / /

///

///

1 a. The circumstances surrounding the arrest are that on or about
2 November 7, 2007, at approximately 1459 hours, Murrieta Police Department Officers responded
3 to a call of a traffic collision with an automobile entering a residence. Upon arrival, the officers
4 found that Respondent's vehicle had crashed through a garage door and inside wall leading to
5 one of the residence's bedroom. Respondent's vehicle landed inside the bedroom of the
6 residence belonging to L.H. While at the scene, Respondent admitted to Murrieta Police
7 Department Officers that she had taken Klonopin and Oxycodone without a prescription. A
8 blood specimen was taken from the Respondent shortly after the accident and Bio-Tox
9 Laboratories found that Respondent had in her system Cannabinoids, Delta-9-THC 29 ng/mL, 11
10 Carboxy-Delta-9-THC 96 ng/mL, Clonazepam (Klonopin) 66 ng/mL, and Oxycodone,
11 LC/MS/MS 5 ng/mL.

12 b. On November 8, 2007, Murrieta Police Department officers contacted the
13 Respondent at her residence. While speaking to Respondent, officers noted a strong odor of
14 marijuana emitting from Respondent's residence. The officers asked Respondent if she had been
15 smoking marijuana the day of the collision, and Respondent said she smoked marijuana at
16 approximately 6:00 a.m., on the morning of the collision (11-7-07).

17 c. As a result of the above conviction, Respondent was placed on summary
18 probation for three years, was committed to the custody of the Riverside County Sheriff for 20
19 days; said commitment to be served on consecutive weekends, commencing February 15, 2008,
20 ordered to pay fines totaling \$1,688, ordered to pay restitution to the victim in an amount
21 determined by and payable to the Court, attend and satisfactorily complete a First Offender DUI
22 Program for four months, submit to chemical test of blood, saliva, breath, or urine or any
23 reasonable physical test upon request of any probation or law enforcement officer, and ordered
24 not to drive unless properly licensed and insured.

25 ///

26 ///

27 ///

28 ///

